

APR 28 2003

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	FINDINGS OF FACT,
PETITIONER,)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
VS.)	ORDER
)	
KENT J. CARTER,)	
)	CAUSE NO. A- 1491
)	
RESPONDENT.)	

This matter came on for hearing on the 23rd day of April, 2003, before Michael Boyd, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Martin W. Swanson. Kent J. Carter ("Respondent") was not present and was not represented by an attorney. The Rules of Evidence were not requested, and the hearing was governed accordingly. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced, and the matter was taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed resident Nebraska insurance producer whose current registered address with the Department is 4509 Adams Street, Lincoln, NE 68504 as evidenced by Exhibit 4.
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
3. On or about March 5, 2003, the Petition and Notice of Hearing were served upon the Respondent by mailing the same to his address of record with the Department by certified mail,

return receipt requested, as evidenced by Exhibit 5. They were returned to the Department on or about March 10, 2003 stamped " Not Deliverable As Addressed Unable To Forward" on it as evidenced by Exhibit 5.

4. As of the date of the hearing, Respondent had not filed a change of address form with the Department as evidenced by Exhibits 3 and 4.

5. Respondent entered into a Consent Order with the Nebraska Department of Banking and Finance on April 17, 2002 by which he admitted that he, as a registered agent of a broker-dealer and an agent of Aragon Financial Services, made an agreement with an individual who was not a registered dealer with Aragon, to have that individual offer certain private placement trust notes to his clients. Respondent would subsequently forward the necessary documents to Aragon for processing which falsely identified Respondent as the sales representative who effected the securities transaction and, in return, Respondent would pay this dealer, who was not registered with Aragon, a portion of the commissions respondent received for the sales. Through this arrangement, Respondent received approximately \$70,000 in commission and passed on about \$38,000 to the non-registered dealer. This arrangement violated Neb. Rev. Stat. §8-1118, §8-1103(1), and §8-1103(9). Respondent's securities license as an agent of a broker-dealer in Nebraska was suspended for a period of 10 business days and he was fined \$17,500 for these violations by the Nebraska Department of Banking and Finance as evidenced by Exhibit 1.

6. Respondent entered into a Consent Order (C04020016) with the National Association of Securities Dealers ("NASD") on or about April 19, 2002, by which he admitted he had, during the period of May 1, 1996 to September 19, 1999, engaged in the conduct as set forth in paragraph 5 above. This conduct constituted violation of NASD Conduct Rules 2110.

Respondent's license as a registered securities agent was suspended for 10 business days and he was fined \$5,000 for the violation by NASD, as evidenced by Exhibit 2.

7. Respondent did not notify this Department of either the Nebraska Department of Banking and Finance administrative action, or the National Association of Securities Dealers administrative action within thirty (30) days.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4047 et seq.

2. The Department has personal jurisdiction over Respondent.

3. The Respondent violated Neb. Rev. Stat. §44-4054(8) by failing to report his change of address to the Department within thirty (30) days.


4. Respondent violated Neb. Rev. Stat. §44-4065(1) twice by failing to report the administrative actions against him by the Nebraska Department of Banking and Finance, and by the National Association of Securities Dealers to the Department within thirty (30) days.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that the Respondent shall pay an administrative fine of \$2,500 within thirty (30) days of the date the Director of Insurance signs this Order. Further, it is recommended the Respondent's resident insurance producer license be suspended for a period of thirty (30) days from the date the Director of Insurance signs this Order. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the department to make application for such further orders as may be necessary.

Dated this 24th day of April, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



MICHAEL BOYD
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Kent J. Carter, Cause No. A-1491.

Dated this 28th day of April, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Respondent by mailing same to him at 4509 Adams Street, Lincoln, NE 68504 by certified mail, return receipt requested, on this 28th day of April, 2003.

